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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170818784-7784-01]

RIN 0648-XF641

**Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery;
Proposed 2018-2020 Fishing Quotas**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2018 and projected status quo quotas for 2019 and 2020. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action would also continue to suspend the minimum shell size for Atlantic surfclams for the 2018 fishing year. The intended effect of this action is to provide benefit to the industry from stable quotas to maintain a consistent market.

DATES: Comments must be received by *[Insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2017-0118, by any of the following methods:

- *Federal e-Rulemaking Portal.* Go to *www.regulations.gov*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA, 01930. Mark the outside of the envelope: “Comments on the 2018-2020 Surfclam/Ocean Quahog Specifications.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are part of the public record and will generally be posted to *www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publically accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the Environmental Assessment (EA), Supplemental Information Request (SIR), and other supporting documents for these proposed specifications are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Erin Wilkinson, Fishery Management Specialist, 301-427-8561.

SUPPLEMENTARY INFORMATION: The Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) requires that NMFS, in consultation with the Mid-Atlantic Fishery Management Council, specify quotas for surfclam and ocean quahog for up to a three-year

period, with annual review. It is the policy of the Council that the catch limit selected allow for sustainable fishing to continue at that level for at least 10 years for surfclams, and 30 years for ocean quahogs. In addition to this, the Council policy also considers the economic impact of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481; May 19, 1998) added Maine ocean quahogs (locally known as Maine mahogany quahogs) to the management unit and provided for a small artisanal fishery for ocean quahogs in the waters north of 43°50' N. lat, with an annual quota within a range of 17,000 to 100,000 Maine bu (0.6 to 3.52 million L). As specified in Amendment 10, the Maine ocean quahog quota is allocated separately from the quota specified for the ocean quahog fishery. Regulations implementing Amendment 13 to the FMP (68 FR 69970; December 16, 2003) established the authority to propose multi-year quotas with an annual quota review to be conducted by the Council to determine if the multi-year quota specifications remain appropriate for each year. NMFS then publishes the annual final quotas in the *Federal Register*. The fishing quotas must ensure overfishing will not occur. In recommending these quotas, the Council considered the most recent stock assessments and other relevant scientific information.

In June 2017, the Council voted to recommend maintaining for 2018-2020 the status quo quota levels of 5.33 million bu (288 million L) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery.

We propose to implement the Council's recommended specifications for 2018 and project that the Council's recommended specifications for 2019 and 2020 will be implemented in those years. Because the Council will review available information in the interim years and adjustments to quotas may occur to account for annual catch limit (ACL) overages, the 2019 and

2020 quotas proposed are considered the projected specifications. We will provide notice in the *Federal Register* before the 2019 and 2020 fishing years announcing the final quotas being implemented.

Tables 1 and 2 show proposed and projected quotas for the 2018-2020 Atlantic surfclam and ocean quahog fishery.

Table 1: Proposed Atlantic Surfclam Measures.

Atlantic Surfclam				
Year	Allowable Biological Catch (ABC)	Annual Catch Limit (ACL)	Annual Catch Target (ACT)	Commercial Quota
2017 (current)	44,469 mt	44,469 mt	29,364 mt	3.4 million bushels (181 million L)
2018	29,363 mt	29,363 mt	29,363 mt	3.4 million bushels (181 million L)
2019-2020 (Projected)	29,363 mt	29,363 mt	29,363 mt	3.4 million bushels (181 million L)

Table 2: Proposed Ocean Quahog Measures.

Ocean Quahog				
Year	ABC	ACL	ACT	Commercial Quota
2017 (current)	26,100 mt	26,100 mt	26,035 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota:

				5.33 million bu (288 million L)
2018	44,695 mt	44,695mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L)
2019 (Projected)	46,146 mt	46,146 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L)
2020 (Projected)	45,783 mt	45,783 mt	25,924 mt	Maine quota: 100,000 Maine bu (3.52 million L) Non-Maine quota: 5.33 million bu (288 million L)

The Atlantic surfclam and ocean quahog quotas are specified in “industry” bushels of 1.88 ft³ (53.24 L) per bushel, while the Maine ocean quahog quota is specified in Maine bushels of 1.24 ft³ (35.24 L) per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is below the level that would result in overfishing for the entire stock. The 2018-2020 quotas are nearly identical (within 100 mt) to those implemented in the 2014-2016 specifications, which were carried over for 2017.

Surfclam

The proposed 2018-2020 status quo surfclam quota was developed in June 2017 after reviewing the results of the Northeast Regional Stock Assessment Workshop (SAW) 61 for Atlantic surfclam. The surfclam quota recommendation is consistent with the SAW 61 finding

that the Atlantic surfclam stock is not overfished, and overfishing is not occurring. Based on this information, the Council is recommending, and NMFS is proposing, to maintain the status quo surfclam quota of 3.40 million bu (181 million L) for 2018-2020 (see table 1).

Ocean Quahog

Consistent with the Council recommendation, we are proposing the following for ocean quahog. The proposed 2018-2020 non-Maine quota for ocean quahog is the status quo quota of 5.33 million bu (288 million L).

The 2018-2020 proposed quota for Maine ocean quahogs is the status quo level of 100,000 Maine bu (3.52 million L). The proposed quota represents the maximum allowable quota under the FMP.

Surfclam Minimum Size

In June 2017, the Council voted to recommend that the minimum size limit for surfclams continue to be suspended for 2018. The minimum size limit has been suspended annually since 2005. Minimum size suspension may not be taken unless discard, catch, and biological sampling data indicate that 30 percent or more of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 mm), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

Commercial surfclam data for 2017 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 10.4 percent of the overall commercial landings, to date, were composed of surfclams that were less than the 4.75-inch (120-mm) default minimum size. Based on the information available, the Regional Administrator concurs with the Council's recommendation, and is proposing to suspend

the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2018).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

This proposed rule is exempt from the requirements of E.O. 12866.

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

For Regulatory Flexibility Analysis purposes only, NMFS has established a uniform size standard for small businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts of less than \$11 million for all its affiliated operations worldwide. In 2016, 349 fishing firms held at least one surfclam or

ocean quahog permit. Using the \$11 million cutoff for firms, there are 341 entities that are small and 8 that are large. In order to provide a more accurate count and description of the small directly regulated entities, landings data were evaluated to select only firms that were active in either the surfclam or the ocean quahog fishery. There are 24 active fishing firms, of which 22 are small entities and 2 are large entities.

Because the proposed quotas are status quo, the action would have no impacts on the way the fishery operates. These measures are expected to provide similar fishing opportunities in 2018-2020 when compared to earlier years. As such, revenue changes are not expected in 2018-2020 when compared to landings and revenues in 2017. Therefore, adoption of the proposed specifications are not expected to have impacts on entities participating in the fishery if landings are similar to those that occurred in 2017.

Maintaining the suspension of the surfclam minimum shell length requirement would result in no change when compared to 2014-2016. The minimum shell length requirement has been suspended each year since 2005. The proposed action would have no impact on the way the fishery operates, and is not expected to disproportionately affect small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 6, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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